IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 17041 of 1993

Between:

G. Jogi Nayudu, S/o. Rama Murthy, aged 27 years,
R/o. Plot No. 58, Sainivas, R.K. Society, near

Vijayadurga Apartments, behind Dr. A.S.Raonagar,

E C I L Post, Hyderabad.

..... PETITIONER

AND

1. Hindustan Machines & Tools Ltd., rep. by its

General Manager (Machine Tool Division)
Balanagar, Hyderabad - -500 854.

2.The Manager, Personnel & Administration,

Hindustan Machine Tools Ltd.,
Balanagar, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondents 1 and 2 in terminating the service

of the petitioner as Welder summarily without any order, is arbitrary, illegal and contrary to the principles of the Labour and Industrial Law and offends Articles 14, 16 and 21 of Constitution of India and consequently direct the respondents to reinstate and regularise the service of the petitioner from the date of the appointment with consequential benefits thereto.

Counsel for the Petitioner: MR.J.VENUGOPAL RAO

Counsel for the Respondents: P.NAGESWARA SREE (SC FOR H.M.T. LTD)

The Court made the following:

-

-

-

-

-

-

-

-

-

-

ORDER:

This writ petition is filed seeking writ of Mandamus declaring the action of the respondents 1 and 2 in terminating the service of the petitioner as Welder summarily without any notice or written orders, as arbitrary, illegal and contrary to the principles of the Labour Law and consequently to direct the respondents to reinstate the petitioner into service and other attendant benefits.

2. It is the case of the petitioner that he is the certificate holder from I.T.I. (Welder) and also passed All India Trade Test conducted by the National Council for Training in Vocational Trades in the trade of Welder in 1985. He joined as an apprentice in H.M.T. Division, Balanagar, Hyderabad and completed the same satisfactorily by 16.10.1988. From 17.10.1988 he was appointed as casual labourer and continued

to work as such in the Fabrication Section of the H.M.T, except one or two days of year. Since his services are not regularized even after completing 4 ½ years of service, he had filed a writ petition No.17241 of 1992 on the file of this Court seeking regularization of his services. The writ petition was disposed of directing the petitioner to file a representation before the Management and the Management was directed to dispose of the same within three months thereafter. In the meanwhile, he was directed to continue in service on the same terms and conditions. In pursuant to the direction of this Court petitioner submitted a representation. Since the same was not taken up, he had filed Contempt Case No.153 of 1993. The said contempt petition was closed in view of the undertaking given by the Management to re-engage him in service. Thus, he was re-engaged on 08.4.1993 and worked as such. However, he was continued only till 02.8.1993 and thereafter he was not allowed to serve the H.M.T. and his services were terminated orally without assigning any reasons and without any notice. In fact, the services of many of his juniors and his batch mates were regularized in the H.M.T. organization. Whereas, the petitioner was denied regularization and he was also denied employment in view of the fact that he had filed writ petition earlier and also taken up contempt proceedings before this Court.

3. A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted in the counter that the petitioner did not complete 5 years of service and as such he is not entitled for regularization. The petitioner himself absented from duties. To that extent the Management-respondent has placed a letter dated 11.03.1993 received from the counsel for the petitioner in the earlier contempt case stating that since the petitioner was out of station since 31.12.1992 he could not report for duty, however, he reported for duty on 08.04.1993. Therefore, he was continued upto 02.08.1993. In fact, even after 02.08.1993 the petitioner remained absent from duties and he never reported for duty.

4. It is also asserted in the counter that it is true in compliance of the orders of this Court in W.P.No.3425 of 1995, services of casual labourers was regularized in a phased manner commencing from 2002- 2003, but the casual labour who satisfied the criteria laid down in the order in W.P.No.3425 of 1995 are alone entitled for such direction and not others. The petitioner has not put in 5 years continuous service and as such he is not entitled for regularization as per the scheme evolved by this Court,

which was confirmed by the Supreme Court. It is also stated by the learned counsel for the respondents-management that in fact not only 42 persons, those involved in the said writ petition No.3425 of 1995, but various other persons numbering more than 100 were also considered and their services were regularized as per the said terms. Since, the petitioner did not satisfy the criteria laid down in the said order, his case was not considered. Therefore, he is not entitled for regularization. In fact, the petitioner himself has left the service of the organization on 02.08.1993 and it is not his case that the petitioner has completed 240 days of service preceding the date of termination of his service and the letter dated 11.3.1993 would make it clear that the petitioner has not put in 240 days of service preceding to the alleged date of termination of service orally on 02.08.1993.

5. Except making some vague allegations that the petitioner was appointed in 1998 and he worked continuously for 5 years and thereafter has filed writ petition before this Court in W.P.No.17214 of 1992 and Contempt Case No.153 of 1993, there is no other documentary evidence placed to satisfy the Court that he continuously worked for 5 years or he has put in 240 days of service before his alleged removal from service. The allegations made by the petitioner that his services were terminated illegally cannot be accepted and the writ petition is devoid of merits and is liable to be dismissed.

6. The writ petition is, accordingly, dismissed. No order as to costs.

_____

C.V.RAMULU,J.

Date: 02nd March 2005.

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The General Manager (Machine Tool Division),

Hindustan Machines & Tools Ltd.,
Balanagar, Hyderabad - -500 854.

2. The Manager, Personnel & Administration,

Hindustan Machine Tools Ltd.,
Balanagar, Hyderabad.

3. Two CD copies

*Form-NIC-OGS/WP{**NR**}*